

REMARKS/ARGUMENTS

I. STATUS OF CLAIMS

Applicants have received the Office Action dated October 29, 2007, in which the Examiner: 1) objected to the specification; 2) provisionally rejected claims 1-5, 8-11 and 13-19 on the ground of non-statutory obviousness-type double patenting in light of claims 7-12 of co-pending U.S. Patent Application No. 10/728,465 (hereinafter '465); and 3) rejected claims 1-20 under 35 U.S.C. § 102(b) as allegedly anticipated by the publication *Integrated Lights Out Technology: Enhancing the Manageability of Proliant Servers* (hereinafter "Publication"). With this Response, Applicants amend the specification. Applicants also amend claims 8 and 11 and cancel claims 9 and 10. Based on the amendment and arguments herein, Applicants respectfully submit that this case is in condition for allowance.

II. OBJECTION TO THE SPECIFICATION

The Examiner objected to the specification because of an incomplete cross-reference to another application in paragraph [0001]. Applicants have amended paragraph [0001] to complete this reference. Thus, Applicants respectfully request that the Examiner remove this objection.

III. PROVISIONAL DOUBLE PATENTING REJECTION

The Examiner provisionally rejected claims 1-5, 8-11 and 13-19 on the ground of non-statutory obviousness-type double patenting in light of claims 7-12 of '465. As the Examiner pointed out, this rejection is a provisional rejection. Because the rejection is a provisional rejection, Applicants are not required to address this rejection at the present time. Thus, without commenting on the merits of this rejection, Applicants respectfully request that this rejection be held in abeyance at least until all other objections and rejections against this case have been resolved.

IV. REJECTIONS UNDER 35 U.S.C. § 102(b)

A. Claims 1-7

The Examiner rejected claims 1-20 under 35 U.S.C. § 102(b) as allegedly anticipated by the Publication. Applicants respectfully traverse this rejection. The

Appl. No. 10/729,676

Amdt. dated November 30, 2007

Reply to Office Action dated October 29, 2007

Publication referenced by the Examiner discloses hardware-based remote consoles. A disadvantage to hardware-based remote consoles is performance quality. To alleviate this problem, independent claim 1 describes a system that is able to selectively “establish hardware-based remote console sessions and software-based remote console sessions.” Thus, unlike the Publication, which teaches only hardware remote consoles and fails to teach software remote consoles, claim 1 teaches selectively switching between hardware and software remote consoles.

In rejecting claim 1, the Examiner cited page 3, 4th paragraph of the Publication as teaching both hardware and software remote consoles (*i.e.*, the mention of “hardware” and “firmware”). Applicants respectfully submit that the Examiner is mistaken. The sentence that includes the terms “hardware” and “firmware” states: “[Integrated Lights Out] is composed of hardware and firmware specifically designed to fully monitor its host server through any server state...” This sentence merely teaches that the Integrated Lights Out chip contains both hardware and firmware that can be used to monitor the host server. There is no mention here or elsewhere of a “software remote console,” as required by claim 1, and there most certainly is no mention of selectively switching between hardware and software remote consoles, as required by claim 1. Applicants’ assertions are corroborated by the fact that the listing of “Integrated Lights Out Features” on page 4 of the Publication includes hardware-based remote consoles but completely omits software-based remote consoles.

Based on the foregoing, independent claim 1 and dependent claims 2-7 are patentable over the Publication.

Dependent claim 7 is patentable over the Publication for an additional reason. Specifically, claim 7 requires “wherein when operating a hardware remote console the system management processor tracks changes in a video memory, analyzes the changes, compresses data describing the changes, and sends the compressed data to remote locations.” On p. 4 of the Office Action, the Examiner asserts that the Publication discloses this limitation on p. 7, paragraph 1. Applicants respectfully submit that the Examiner is mistaken. This portion of the

Appl. No. 10/729,676

Amdt. dated November 30, 2007

Reply to Office Action dated October 29, 2007

Publication does discuss encoding, compressing and redirecting data, but the data is text data, not “changes in a video memory.” Moreover, the data is not even analyzed for changes, as required by claim 7. Claim 7 is further patentable over the Publication for these reasons.

B. Claims 8-15

Independent claim 8 requires “wherein the system management processor selectively switches between a software-based remote console session and a hardware-based remote console session.” The Examiner asserts that the Publication teaches this limitation on page 3, paragraph 4. However, as Applicants have already established, this portion of the Publication fails to teach or suggest the limitation in question. The Examiner also asserts that the Publication teaches this limitation on page 6 (the terms “virtual presence” and “remote console”). Applicants kindly submit that the Examiner is again mistaken. Any type of “remote console,” whether hardware-based or software-based, may establish a “virtual presence.” Thus, the mere fact that the Publication uses the term “virtual presence” does not mean that the Publication teaches a “software-based remote console,” as required by claim 8. Applicants’ assertions are again corroborated by page 6, paragraph 5, which states, “[a] customer can use Integrated Lights-Out to view the managed server at any time through the seamless, hardware-based, text Remote Console” (emphasis added). Thus, although the Publication does appear to mention the possibility of creating a “virtual presence” via a “hardware-based … Remote Console,” the Publication does not teach the creation of a “virtual presence” via a software-based remote console, such as the software-based remote console required by claim 8.

Claim 8 is patentable for additional reasons. Specifically, as amended, claim 8 requires “wherein the remote computer further comprises a software-based remote console applet program and a hardware-based remote console applet program, the software-based remote console applet program supporting software-based remote console sessions and the hardware-based remote console applet program supporting hardware-based remote console sessions.” On pp. 4-5 of the Office Action, the Examiner asserts that the Publication

Appl. No. 10/729,676

Amdt. dated November 30, 2007

Reply to Office Action dated October 29, 2007

discloses this limitation on p. 9, paragraph 3. Applicants respectfully submit that the Examiner is mistaken. This portion of the Publication merely discloses a Virtual Media applet that provides data to the Integrated Lights-Out as requested. There appears to be no mention of the Virtual Media applet being used to support a software-based remote console or even a hardware-based remote console. Thus, not only does the Publication fail to disclose software-based remote consoles as explained above, but the Publication certainly fails to disclose a software-based remote console applet supporting software-based remote console sessions and a hardware-based remote console applet supporting hardware-based remote console sessions. Claim 8 is patentable over the Publication for this additional reason.

Claim 8 is patentable for yet another reason. As amended, claim 8 requires “wherein the hardware-based remote console applet program controls the software-based remote console applet program.” On page 5 of the Office Action, the Examiner asserts that the Publication teaches this limitation on p. 11, paragraph 2. Applicants respectfully submit that the Examiner is mistaken. This portion of the Publication only describes a firewall that protects the integrity of firmware. A firewall that protects the integrity of firmware is not the same as a hardware-based remote console applet program that controls a software-based remote console applet program, where the applets control hardware-based remote console sessions and software-based remote console sessions, respectively (as required by claim 8). Claim 8 is patentable for this additional reason.

Based on the foregoing, Applicants respectfully submit that independent claim 8 and dependent claims 9-14 are patentable over the Publication.

C. Claims 15-20

Independent claim 15 requires “wherein the means for providing selectively establishes hardware-based remote console sessions and software-based remote console sessions.” As explained above in reference to independent claim 1, the Publication fails to teach this limitation. The Publication teaches only hardware-based remote consoles, not software-based remote consoles, as

**Appl. No. 10/729,676
Amdt. dated November 30, 2007
Reply to Office Action dated October 29, 2007**

required by claim 15. Thus, independent claim 15 and dependent claims 16-20 are patentable over the Publication.

Dependent claim 20 is patentable for an additional reason. Specifically, claim 20 requires "wherein when operating a hardware remote console the means for providing tracks changes in a video memory, analyzes the changes, compresses data describing the changes, and sends the compressed data to remote locations." As described above in context of claim 7, the Publication fails to teach or even suggest such a limitation. Claim 20 is patentable over the Publication for this additional reason.

V. CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
Legal Dept., M/S 35
P.O. Box 272400
Fort Collins, CO 80527-2400

/Nick P. Patel/
Nick P. Patel, Reg. No. 57,365
CONLEY ROSE, P.C.
(713) 238-8000 (Phone)
AGENT FOR APPLICANTS